

FAMILY COURT MATTER

Answer and Counter-Petition in Response to Petition for Dissolution of Marriage without Children

IMPORTANT NOTICES

- **STOP:** THE LAW STATES THAT BEFORE YOU CAN BEGIN A DIVORCE IN MINNESOTA, EITHER (1) YOU OR YOUR SPOUSE (HUSBAND OR WIFE) MUST HAVE LIVED IN MINNESOTA FOR THE LAST SIX (6) MONTHS, OR (2) YOU OR YOUR SPOUSE MUST BE A MEMBER OF THE ARMED FORCES STATIONED IN MINNESOTA FOR THE LAST SIX (6) MONTHS. IF ONE OF YOU HAS NOT LIVED IN MINNESOTA FOR THE LAST SIX (6) MONTHS, STOP, YOU CANNOT GET A DIVORCE YET. YOU MUST WAIT UNTIL YOU HAVE LIVED IN MINNESOTA FOR AT LEAST SIX (6) MONTHS.
- **STOP:** IF YOU OR YOUR SPOUSE HAS ALREADY STARTED A DIVORCE, LEGAL SEPARATION, OR CUSTODY CASE IN MINNESOTA OR IN ANY OTHER STATE, YOU CANNOT START THIS DIVORCE. YOU COULD EITHER COMPLETE THE OTHER DIVORCE ACTION, OR YOU COULD HAVE THE OTHER DIVORCE ACTION DISMISSED AND THEN START THIS DIVORCE.
- **WARNING:** YOU HAVE THIRTY (30) DAYS FROM THE DATE YOU WERE SERVED WITH THE *PETITION FOR DISSOLUTION OF MARRIAGE* IN WHICH TO RESPOND. IF YOU DO NOT RESPOND WITHIN THE THIRTY (30) DAY PERIOD, THE COURT MAY GIVE YOUR SPOUSE (HUSBAND OR WIFE) EVERYTHING HE OR SHE ASKED FOR IN THE *PETITION*.
- THE COURT EXPECTS EVERY PERSON WHO APPEARS IN COURT WITHOUT A LAWYER TO KNOW THE LAW. IF YOU ACT AS YOUR OWN LAWYER, YOU MUST DO WHAT A LAWYER WOULD DO.
- YOU SHOULD SEE A LAWYER IF YOU DON'T KNOW HOW TO ANSWER THE QUESTIONS ON THESE FORMS OR IF YOU THINK THE OTHER PARTY WILL HIRE A LAWYER.
- AS YOU FILL IN THE FORM(S) IN THIS PACKET, YOU **MUST** FOLLOW THE INSTRUCTIONS INCLUDED WITH THIS PACKET.
- TYPE YOUR ANSWERS OR PRINT NEATLY USING DARK INK.
- IF YOU NEED MORE SPACE TO ANSWER A QUESTION, USE AN ADDITIONAL FULL SHEET OF PAPER.

INSTRUCTIONS

Step 1

Fill Out the *Answer and Counter-Petition* Form

This Dissolution of Marriage (divorce) proceeding started when you were served with a copy of the *Summons* and a copy of the *Petition for Dissolution of Marriage*. You have thirty (30) days from the date you were handed the *Summons* and *Petition* in which to respond. If you do not respond within the thirty (30) day period, the Court may give your spouse everything he or she has asked for in the *Petition*.

This packet includes the following forms:

1. *Answer and Counter-Petition*
2. *Form 11.1 Confidential Information Form*
3. *Affidavit of Personal Service*
4. *Affidavit of Service by Mail*
5. *Prehearing Statement*

To respond to the *Petition for Dissolution of Marriage*, fill out the *Answer and Counter-Petition* form included in this packet. The *Answer* form is divided into three (3) parts. The first part of the form (Questions 1-4 on Page 1) are known as your *Answer to the Petition for Dissolution of Marriage* and tells the court and your spouse whether you believe the information in the *Petition* is true or not true. The second part of the form (Questions 1-32 starting on Page 2) gives the court information about you, your spouse, your children (if any), your finances, and your property. The third part of the form (Questions 1-17 starting on Page 23) tells the court and your spouse what you are asking for from the Court.

FILL IN THE TOP PART OF THE FORM

NOTE: This information is known as “the caption” and will be the same on every form you fill out. The information to fill out the top part of the *Answer and Counter-Petition* form can be found on the top part of the *Petition for Dissolution of Marriage*.

- Fill in the “Case No.” as found at the top of the *Petition*, if provided.
- On the line marked “Name of Petitioner,” write the full name of your spouse as found on the *Petition*. From now on, your spouse will be called Petitioner.
- On the line marked “Name of Respondent,” write your full name. From now on, you will be called Respondent.

ANSWER QUESTIONS 1 – 4 ON PAGE 1 OF THE FORM, WHICH ARE YOUR ANSWERS TO THE *PETITION FOR DISSOLUTION OF MARRIAGE*

NOTE: The instructions which follow are numbered the same as the questions on the *Answer and Counter-Petition* form.

For each of the following four questions, look at each paragraph numbered 1 through 32 in the *Petition for Dissolution of Marriage*.

1. If a paragraph is true, put the paragraph number(s) on the lines provided.
2. If a paragraph is not true, put the paragraph number(s) on the lines provided.
3. If a paragraph is partly true and partly not true, put the paragraph number(s) on the lines provided.
4. If you don't know whether a paragraph is true or not true, put the paragraph number(s) on the lines provided.

ANSWER QUESTIONS 1 – 32 STARTING ON PAGE 2 OF THE FORM, WHICH GIVES THE COURT INFORMATION ABOUT YOU AND YOUR SPOUSE

1. Throughout this case, your spouse (husband or wife) will always be known as the Petitioner. Print your spouse's full name, street address, city, county, state, zip code, and date of birth. List all of your spouse's former or other names or write "none".
2. Throughout this case, you will always be known as the Respondent. Print your full name, street address, city, county, state, zip code and date of birth. List all of your former or other names or write "none".
3. Provide information about the date and location of your marriage.
4. Check YES if your spouse has lived in Minnesota for the last six months. Otherwise, check NO. Check YES if you have lived in Minnesota for the last six months. Otherwise, check NO.

STOP: The law states that before you can begin a divorce in Minnesota, either: (1) you or your spouse (husband or wife) must have lived in Minnesota for the last six months; or (2) you or your spouse must be a member of the armed forces stationed in Minnesota for the last six months. If neither you nor your spouse have lived in Minnesota for the last six months, you cannot file for a divorce yet. You must wait until one of you has lived in Minnesota for at least six months. If one of you has lived in Minnesota for the last six months, then go on to answer the rest of the questions.

5. Answer the questions about the military status of both you and your spouse. If either husband or wife is a member of the armed forces there are special procedures under the Soldiers and Sailors Civil Relief Act. Contact an attorney.
6. In Minnesota, a marriage can be dissolved even if only one of the parties states that the marriage relationship is over. You do not need to add any information in this section.
7. Check YES if you are still living together; check NO if you are not. If NO, print the date you physically separated. If YES, describe why you are living together at this time.
8. Check YES if you or your spouse has already started another dissolution, legal separation or annulment proceeding in Minnesota or any other state.

WARNING: If you or your spouse have already started a divorce or legal separation or annulment case in Minnesota or in any other state and it has not been dismissed, you CANNOT proceed with this divorce. You could either complete the other action, or you could have the other action dismissed and then start this divorce.

Check NO if there is no other action.

9. Check YES if there is an existing *Order for Protection* or an existing *Harassment Restraining Order* against the Petitioner or Respondent; complete this question and **staple a copy of the order to the completed *Petition***. Check NO if there is no Order.
10. This section is to make sure you are using the right forms. Check YES if you and your spouse have minor children under the age of 18, or under 20 and still in high school, or adult dependents who are not able to support themselves because of a physical or mental condition. If you check YES, you are using the wrong packet. If you check NO, continue with the questions.
11. Check YES only if the HUSBAND has any child(ren) under the age of 18 who were born prior to the marriage from a different marriage or relationship. If YES, list the child(ren) and provide the requested information.
12. Check YES only if the WIFE has any child(ren) under the age of 18 who were born prior from another marriage or relationship. If YES, list the child(ren) and provide the requested information.
13. “Public assistance” means MFIP, General Assistance, medical assistance, or sliding fee daycare. Check YES or NO. If YES, write in the name of the county paying the assistance. Minnesota law requires the petitioner to notify the public authority paying assistance a divorce action has been filed.
14. “School” includes college, vo-tech, and night classes. Check YES or NO. If YES, write in the name of the school.
15. Answer whether the Petitioner or Respondent or anyone in either household, including a child, received Supplemental Security Income (SSI) or Social Security (SSDI or RSDI) due to disability, retirement, or death of a parent or spouse.
16. This question is about your spouse’s employment status. Provide the requested information about your spouse’s employer. If your spouse is self-employed, list the business name and address.
17. This question asks for your spouse’s monthly income. Check “Respondent has no information about Petitioner’s income” if you do not know how much money your spouse makes. If you have detailed information about your spouse’s income, complete the questions.
18. This question is about your employment status. Provide the requested information about your employer. If you are self-employed, list the business name and address.
19. This question asks about your monthly income. If you are paid weekly, multiply your weekly income by 4.33 to get monthly income. If you are paid every two weeks, multiply by 2.17 to get monthly income. If you are paid twice per month, multiply by 2.
20. Complete the questions about medical and dental insurance.

NOTE: If you, your spouse, or your child(ren) are covered by medical or dental insurance through your job or your spouse's job, that coverage can be continued even after the divorce. If you want the insurance coverage to continue after the divorce, call the Employment Benefits Office of you or your spouse's employer and ask for "COBRA" coverage.

21. This question is about spousal maintenance. Spousal maintenance is money paid by one spouse to help support the other spouse. Spousal used to be called alimony. If you check YES for either (a) or (b), you need to provide details about the length of marriage, education of the spouse who would receive maintenance, gross monthly income, and reasons why the spouse would not be able to maintain the standard of living established during the marriage.
22. List all the vehicles owned by husband and wife together or separately.

WARNING: Questions 23-24 ask about marital and non-marital property. Dividing marital property and nonmarital property is complicated. You should talk to an attorney.

- **Marital Property** means almost anything that you or your spouse own that you or your spouse received during the marriage, even during the times that you and your spouse were separated. This includes real estate, boats, cabins, household goods, furniture, jewelry, and other things.
 - **Nonmarital Property** means: (1) anything that you or your spouse owned before the marriage; (2) anything that you or your spouse received as a gift, bequest, devise, or inheritance; (3) anything that you or your spouse got in trade or in exchange for your nonmarital property; (4) anything that is an increase in the value of nonmarital property; (5) anything you or your spouse received after the valuation date set by the Court; or (6) anything included by a valid antenuptial contract (STOP: If you have an antenuptial contract, you should stop here and talk to an attorney.)
23. Check YES or NO whether you and your spouse have divided the **marital property** to your mutual satisfaction, including household goods, furniture, furnishings, and other belongings. If you have **NOT** divided the marital property, list the items that you want.
24. (a) Check YES or NO whether you claim **non-marital property**. Non-marital property is property you owned before you got married or acquired during the marriage by inheritance or gift. List all non-marital property you own.
- (b) Check YES or NO whether your spouse claims **non-marital property**. Non-marital property is property you owned before you got married or acquired during the marriage by inheritance or gift. List all non-marital property your spouse owns.
25. Check YES or NO whether you or your spouse has money in banks, savings, cash or investments. If YES, fill in all columns in the box.
26. Check YES or NO whether you and/or your spouse own part or all of a business. If YES, fill in the name, address and value of the business.
27. Check YES or NO if either you or the Petitioner own a manufactured home. If YES, complete the detail questions.

WARNING: Question 28 asks you to list all **real property**. Real property is land and the buildings on the land. You must list all real property owned by you and your spouse together, separately, or with others. Failure to list all property **will** create serious problems and expense in the future. Until the divorce is finalized and the Decree awards the property to just one party, both husband and wife have an interest in all real estate owned by either husband or wife. A deed given by one spouse to the other spouse before the divorce is finalized does **not** transfer all interest to the grantee spouse. Any deeds between the parties must be signed and dated after the divorce is finalized. **Dividing real property is complicated. You should talk to an attorney if you and/or your spouse own any real property.**

28. (a) Check YES or NO if you and your spouse own any real property together.
(b) Check YES or NO if you own real property solely in your name or with someone other than Petitioner.
(c) Check YES or NO if Petitioner owns real property solely in his/her name or with someone other than you.
(d) Answer how many properties are owned by you and your spouse in total.
If YES to (a), (b) or (c), complete the Real Property Information questions for each piece of property. (1) List the full names of all owners of the property. (2) Fill in the legal description of the property (the legal description is not the same as the street address). *Example of Legal Description: Lot 1, Block 4, Hamden Edition, Hennepin County, Minnesota.* You can get a copy of the legal description from the Deed or Contract for Deed at the office of the County Recorder or Registrar of Titles in the County where the real property is located. **WARNING:** Be sure to copy the legal description **exactly** as is on the Deed or Contract for Deed. (3) Fill in the street address, city, county, and state where your property is located. (4) State the date the property was purchased and its purchase price. (5) State the amount of any existing loans or mortgages. (6) State the current market value of the property and describe how you came up with that value. (7) Check YES if this property is the homestead.

WARNING: Question 29 asks about pension, profit sharing, and retirement plans. **Dividing pension, profit sharing, and retirement plans is complicated. You or your spouse could face large losses if the divorce decree does not divide the pension or retirement plan according to the laws that apply. You should talk to an attorney if you or your spouse have any of these types of plan.**

29. (a) Check YES or NO if your spouse has an IRA, 401(k), 403(b) or other retirement plan. If YES, list the last four digits of the account number, the name of the bank, and the current account balance.
(b) Check YES or NO if your spouse's past or present employer, union, or other group, paid money into a pension, profit-sharing, or other retirement plan for you. If YES, list the name of the plan, the name of the group employer, union, or group providing the plan, the date your spouse began working at the job or joined the plan, the type of plan, and the present value of the plan.
(c) Check YES or NO if you have an IRA, 401(k), 403(b) or other retirement plan. If YES, list the last four digits of the account number, the name of the bank, and the current account balance.
(d) Check YES or NO if your past or present employer, union, or other group, paid money into a pension, profit-sharing, or other retirement plan. If YES, list the name of the plan, the name of the group employer, union, or group providing the plan, the date you began working at the job or joined the plan, the type of plan, and the present value of the plan.

30. Check YES or NO if you and/or your spouse have outstanding debts (owe money) either together or separately. If YES, list all of the debts you and your spouse now have, even if only one of you created the debt and even if only one of your names is on the credit card, loan or note. List all debts still owed from before you were married, from during the marriage but before separation, and after separation. The Judgment and Decree (divorce decree) will state who is responsible for paying each debt. Include credit card bills, gas bills, water bills, telephone bills, school loans, car loans, home loans and mortgages, and other bills and loans. List to whom the debt is owed (such as Sears); how the money was used (such as “clothing for the children”); whose name is on the account and when the debt was created (if you cannot get the exact date the debt was created, at least state if the debt is from before the marriage, or during the marriage and before separation, or after separation); the current balance due; and the monthly payment. Attach another sheet of paper if you need more space. You must disclose all debts.
31. You may change your name as part of the divorce, but you do not have to do so. You can change your name to a maiden name, or some other name. You cannot make your spouse change his or her name, and your spouse cannot make you change your name. If you want to change your name, check YES and answer (a) – (c). If you do not want to change your name, check NO.
- (b) Print your new name (*first, middle, and last*). **Do not use initials unless you want only an initial instead of a full name**
 - (c) You cannot change your name if your reason for changing your name is to defraud or mislead anyone. Mark True or False to the statement “Petitioner has no intent to defraud or mislead anyone by changing his/her name”.
 - (d) If you have a felony conviction, you cannot change your name unless you notify the prosecuting authority that you intend to change your name. The prosecuting authority has 30 days after being served with your notice to object to the name change. If you have been convicted of a felony anywhere in the United States, answer (c) YES. Ask Court Administration to give you the *Felon Name Change Instructions*.
- Warning:** If you do not notify the prosecuting authority of the request for name change and you use your new name, you may be guilty of a gross misdemeanor.
32. List any other facts you would like the Court to know.

INSTRUCTIONS FOR ANSWERING QUESTIONS 1-17, WHICH TELL THE COURT AND YOUR SPOUSE WHAT YOU WANT THE COURT TO ORDER

1. This tells the Court that you want your marriage dissolved. You do not need to write anything here.
2. You must check a box to state that you want to pay for health and dental insurance for you and your spouse, after the divorce is finalized. If you want you and your spouse to each pay your own health and dental insurance costs, check box (a). Box (c) is for COBRA coverage. Check with the employer of the person who has coverage for information on how to get COBRA coverage. If you have other questions, or if the boxes provided do not explain what you want the court to order, ask an attorney for help.
3. If you want spousal maintenance to be denied, check box 3(a). If you want the Court to decide the issue of maintenance at a later date, then check box 3(b). If spousal maintenance should be ordered to help either you or your spouse pay for necessities, check the appropriate boxes in 3(c).

4. In question 22 above you listed all of the vehicles owned by you and your spouse. Write down which vehicles you want the Court to give to you and which vehicles you want your spouse to have.

WARNING: Dividing marital property and non-marital property is complicated. You should talk to an attorney.

5. Check YES or NO whether you and your spouse have already divided your marital property to your mutual satisfaction. If NO, list the marital property you want to receive and the marital property you want your spouse to receive.
6. Check YES or NO whether you and your spouse have already divided your non-marital property to your mutual satisfaction. If NO, list the non-marital property you want to receive and the non-marital property you want your spouse to receive.
7. State how you want the Court to divide the cash and investments listed at #25 above.
8. If you and/or your spouse own a business, state how you want the Court to divide the business. Be very specific.
9. If you and/or your spouse own a manufactured home, provide the address of the manufactured home and check off who should get it.
10. If you or your spouse own other real property either separately or together, check off whether you (Petitioner) or your spouse (Respondent) should be awarded that real property, and then list the street address, city, county and state where the homestead is located, and then write the **exact** legal description. You can get a copy of the legal description from the Deed or Contract for Deed at the office of the County Recorder or Registrar of Titles in the County where the property is located. Write in the name of the mortgage company and the amount of the current mortgage balance. If there is an additional parcel of real property, list it in paragraph 11.
11. If there is additional real property, provide the address and legal description and state how that property should be awarded.
12. Describe how your pension, profit sharing, retirement, IRA or 401 plan should be divided, then do the same with any plan in your spouse's name. Get competent legal and tax advice before making any decisions.
13. If you and your spouse have any individual debts and you want the Court to order each of you to pay your own debts, check box (a). In question 30 above you listed all of the debts you and your spouse have. Include all debts listed from question 30. If you want the court to order that each party pay their own debts, check box (b).
14. If you want to change your name, print **exactly** how your new name should be listed (first, middle, and last). **Do not use initials unless you want only an initial instead of a full name.**
15. List anything else you would like the court to decide.
16. You do not need to write anything for question 16.

17. READ and SIGN the **Verification and Acknowledgments** on the next page.

DO NOT DATE AND SIGN YOUR ANSWER AND COUNTER-PETITION UNTIL YOU ARE IN THE PRESENCE OF A NOTARY PUBLIC or Court Administrator/Deputy. MAKE SURE TO BRING PICTURE IDENTIFICATION TO SHOW TO THEM. A Court Administrator/Deputy is found in your local courthouse and a Notary Public can usually be found at a bank.

Step 2

Make Copies of Forms

Make two (2) copies of the *Answer and Counter-Petition*. Keep one for yourself. Step 3 tells you how to serve the second copy on the other party. Step 5 tells you what to do with the original Answer and Counter-Petition.

Step 3

Serve the Other Party

Your spouse must receive a copy of your *Answer and Counter-Petition* within thirty (30) days of the date you were served with the *Summons* and *Petition*. This is called “service of process.” Service of process may be done **either** by “Personal Service” or by “Mail Service.” Follow these instructions:

NOTE: You need to have someone else hand-deliver or mail the *Answer and Counter-Petition* to your spouse or your spouse’s attorney.

1. **Personal Service**

Ask an adult friend or adult family member to hand a copy of the *Answer and Counter-Petition* directly to your spouse. If your spouse has an attorney, the attorney’s name and address will be on the *Summons* you received, and instead of delivering the papers to your spouse, they must be delivered to your spouse’s attorney. The papers cannot be given to anyone other than your spouse or your spouse’s attorney, if any. If you do not have an adult friend or adult family member who will serve the *Answer and Counter-Petition* on your spouse, you should call a private process server listed in the telephone book, or ask the Sheriff in the county where your spouse lives, who will then serve the papers. Private process servers and the Sheriff charge a fee to serve papers.

2. **Service by Mail**

Ask an adult friend or adult family member to place one copy of the *Answer and Counter-Petition* in an envelope. Write your spouse’s address on the front of the envelope, or, if your spouse has an attorney, write the attorney’s address on the front of the envelope. Ask the friend or family member to place the correct amount of postage on the envelope (you may want to take the envelope to the post office and have it weighed to determine the correct postage), and put the envelope in the mailbox.

Step 4

The Person Who Serves Your Spouse Must Fill Out the *Affidavit of Service*

The person who handed or mailed the *Answer and Counter-Petition* to your spouse (or your spouse's attorney, if any) must fill out an *Affidavit of Service* form. This form proves to the court that your papers were handed or mailed to the other party. There are two different *Affidavits* included in this packet. It is very important to use the correct form based on the way in which the papers were served on your spouse.

If the papers were hand-delivered to your spouse (or your spouse's attorney), fill out the *Affidavit of Personal Service* form by following these instructions:

1. Fill in the top part of the form the same way you did on your *Answer and Counter-Petition*.
2. After "County of," fill in the name of the county where the *Affidavit of Personal Service* was signed.
3. On the blank line after "I," fill in the name of the person who hand-delivered the forms to your spouse (or your spouse's attorney).
4. Fill in the date that the documents were hand-delivered to your spouse (or your spouse's attorney).
5. List the papers that were actually handed to your spouse or your spouse's attorney. (*For example, the Answer and Counter-Petition*).
6. Fill in the name of the person to whom the document was handed (either your spouse or your spouse's attorney) and location (address) where the papers were handed to them.

The person who delivered the forms must not sign the *Affidavit of Personal Service* until (s)he is in the presence of a Notary Public or Court Administrator/Deputy. Make sure the person brings picture identification to show them.

7. After it has been signed, make one copy of the *Affidavit of Personal Service* for your records.

If the papers were mailed to your spouse (or your spouse's attorney, if any), the person who mailed the documents must fill out the *Affidavit of Service by Mail* form by following these instructions:

1. Fill out the top part of the form the same way you did on your *Answer and Counter-Petition*.
2. After "County of," fill in the name of the County where the *Affidavit of Service by Mail* was signed.
3. On the blank line after "I," fill in the name of the person who mailed the form to your spouse (or your spouse's attorney).
4. Fill in the date the documents were placed in the mail to your spouse (or your spouse's attorney).

5. Fill in the complete titles of all of the documents that were mailed to your spouse or your spouse's attorney.
6. Fill in the full name of the person to whom you addressed the envelope and to whom the envelope was mailed; (either your spouse or your spouse's attorney).
7. Fill in the address to which the envelope was mailed (either your spouse's address or the address of your spouse's attorney), including the street address, city, state, and zip code.
8. Fill in the city and state in which the post office is located and where the envelope was mailed.

The person who mailed the forms must not sign the *Affidavit of Service by Mail* until (s)he is in the presence of a Notary Public or Court Administrator/Deputy. Make sure the person brings picture identification to show them.

9. After it has been signed, make one copy of the *Affidavit of Service by Mail* for your records.

Step 5

File the Forms With the Court

Immediately take or mail the originals of the following documents to the Court Administrator's office. You may also mail the papers to the Court Administrator.

- *Answer and Counter-Petition*
- *Form 11.1 Confidential Information Form* (Include names and social security numbers for you and your spouse. This information will be kept confidential. You should also know that if at a later point in the divorce proceeding you need to file financial records such as bank statements, credit card statements, or income tax returns then you should fill out Form 11.2 and use that as a cover sheet for any financial records. Using these forms ensures that your social security number and other financial records will be kept in a confidential part of the court file.)
- *Affidavit of Personal Service* **OR** *Affidavit of Service by Mail*

You will now need to pay a filing fee. Contact the Court Administrator to find out the amount of the filing fee.

If you cannot afford to pay the filing fee, the Judge may waive it under certain circumstances. Ask the Court Administrator/Deputy for an *In Forma Pauperis* application. Fill out this application and then sign it in front of a Notary Public or Court Administrator/Deputy. Court administration staff will explain local practice as to presenting the In Forma Pauper application to a judge for review. A judge will review your application and decide if you must pay the filing fee. The Court Administrator cannot accept your legal papers without either the required filing fee or an order from a judge waiving the fee.

Step 6

Temporary Relief

If you and your spouse need a temporary order to address temporary custody, visitation, child support, spousal maintenance or any other matter in the divorce, go to the Court Administrator's office and ask for "Temporary Relief Pending Final Hearing Without Children" forms. If the judge signs the

temporary order that order is in effect until the judge signs the final order divorcing you and your spouse.

Step 7

Try to Settle All of the Issues With Your Spouse

1. If you do not respond to the *Petition for Dissolution of Marriage* within thirty (30) days, your spouse will notify the court and ask the court to grant everything asked for in the *Petition*. The court will do so by issuing a final divorce decree called the *Findings of Fact, Conclusions of Law, Order for Judgment and Judgment and Decree*.
2. If you AGREE with everything your spouse is asking for in the *Petition for Dissolution of Marriage*, tell your spouse in writing. Your spouse will then complete a document called a *Marital Termination Agreement* that you will be asked to review and sign to make sure it says what you agreed to for your divorce. Your spouse will also complete a document called a *Findings of Fact, Conclusions of Law, Order for Judgment and Judgment and Decree* which you will be asked to review and sign to make sure it says what you agreed to in your divorce.
3. If you do NOT AGREE with everything your spouse is asking for in the *Petition for Dissolution of Marriage*, you and your spouse should attempt to reach an agreement regarding as many issues as possible.

If you and your spouse reach an agreement regarding all issues, your spouse will fill out a *Marital Termination Agreement* that you will be asked to review and sign to make sure it says what you agreed to for your divorce. Your spouse will also complete a document called a *Findings of Fact, Conclusions of Law, Order for Judgment and Judgment and Decree* which you will be asked to review and sign to make sure it says what you agreed to in your divorce.

If you and your spouse DO NOT reach an agreement regarding all of the issues, you and your spouse will have to go to court and a judge will decide the issues for you after a trial. If disagreements still exist, go to Step 8 and fill out the *Prehearing Statement* included in this packet.

Step 8

Fill Out the Prehearing Statement

NOTE: Fill out the *Prehearing Statement* form ONLY if you and your spouse DO NOT reach an agreement regarding all of the issues and you must go to trial so the judge can make a decision on how to settle the issues.

The *Prehearing Statement* gives the court-updated information regarding income, employment, property, and other issues since you filed your *Counter-Petition*. Your spouse will also submit a *Prehearing Statement*. The court will schedule a hearing called a “Prehearing Conference.” Unless excused by the court, you must attend the hearing prepared to negotiate a final settlement of all issues. If you do not go to the Prehearing Conference, the court can issue a final divorce decree without considering anything that you have asked for, and can order you to pay your spouse’s attorney’s fees (if any). If you and your spouse cannot reach an agreement at the Prehearing Conference, the court will issue an order identifying the issues about which you disagree, scheduling the trial date, and setting the

date by which you and your spouse must exchange your list of exhibits and witnesses to be offered at trial.

The questions asked in the *Prehearing Statement* form are similar to questions asked on other forms you have already filled out. The purpose of this form, however, is to give the court-updated information in preparation for trial. To answer the questions asked about YOU, you should look at your *Answer and Counterclaim* and any *Application for Temporary Relief* you may have filled out. To answer the questions asked about YOUR SPOUSE, you should look at your spouse's *Petition for Dissolution of Marriage* and any *Application for Temporary Relief* your spouse may have filled out. The *Application for Temporary Relief* is a separate form.

Fill out the *Prehearing Statement* by following these instructions:

FILL IN THE TOP PART OF THE FORM:

The information on the top part of the form is the same as on all of the other forms you have filled out.

- Write in the case number. Write in the full name of your spouse (Petitioner) and your full name (Respondent).
- On the right-hand side of the page, above "*Prehearing Statement*," check off whether you are the Petitioner or Respondent.

FILL IN THE REST OF THE FORM

NOTE: The instructions that follow are numbered the same as the questions on the form.

1. Fill in the personal information about you and your spouse, including:
 - a. full name;
 - b. present mailing address;
 - c. employer's name;
 - d. employer's address
 - e. birth date;
 - f. marriage date;
 - g. the date you and your spouse separated (began living in different houses), if any;
 - h. the date(s) of any temporary orders already issued by the Court in this case;
 - i. the name, birth date and age of each child born or adopted into your marriage; and with whom each child is now living, if under the age of 18;
 - j. check YES or NO whether the wife is or is not currently pregnant and, if pregnant, the date that the baby is due;
 - k. the next question asks whether custody is or is not contested:
 - Check NO if you and your spouse AGREE about who will have legal and physical custody if the child(ren).
 - Check YES if you and your spouse DISAGREE about who will have legal and physical custody if the child(ren), and then on a separate sheet of paper, write your proposal for custody and visitation for each child. Write "Exhibit 1A" at the top of the paper.

2.
 - a. Print the name of your employer and write in how long you have worked there. Do the same for your spouse. **ATTACH A COPY OF YOUR PAYCHECK STUB(S) FOR THE LAST MONTH, AND IF POSSIBLE, FOR THE LAST THREE (3) MONTHS.**
 - b.
 - (1) Write your GROSS (before taxes) MONTHLY income, then do the same for your spouse. If you are paid one time per month, write the gross monthly amount on the line. If you are paid two times a month (such as on the 1st and 15th), add together these two gross amounts, and write that amount on the line. If you are paid every other week, multiply the gross amount from one paycheck by 26 (the number of times you are paid each year), and write that amount on the line. If you are paid only one time per year, divide that amount by 12 and write that amount on the line.
 - (2) Write in amounts deducted from your income, including Federal Income Tax, State Income Tax, Social Security (FICA) and Medicare, Pension deduction, union dues, health/hospitalization coverage for you and your family, and dental coverage for you and your family. Do the same for your spouse.
 - (3) Add together all deductions from your income and write that on the line. Do the same for your spouse.
 - (4) To figure out your net income, subtract line 3 from line 1. Do the same for your spouse.
 - (5) List the type and amount of other deductions from your income (for example, child support). Do the same for your spouse.
 - (6) Add together all your “other deductions” and write that on the line. Do the same for your spouse.
 - (7) To figure out your net take-home pay, subtract line 6 from line 4. Do the same for your spouse.
 - c. List your tax withholding status. For example, write M-2 if you are married and claim two deductions. Do the same for your spouse.
 - d. Check YES or NO whether your medical and dental insurance coverage will be available to your spouse after the divorce. If you do not know the answer, call your employer’s employment benefits office and ask whether “COBRA” coverage is available for your spouse.
 - e. List any other income you receive. Do the same for your spouse.
 - f. List all other employment benefits you receive or expect to receive. Do the same for your spouse.
3.
 - a. Check whether YOU pay or receive child support or maintenance (alimony) as a result of a paternity case or divorce from someone other than your current spouse. If NO, do not write anything for this question. If YES, fill in the amount paid or received each month, the date and county in which the order was issued, and check off whether any arrearage exists (and if so, fill in the amount of the arrearage). Arrearage is any amount that is past due.

- b. Check whether YOUR SPOUSE pays or receives child support or spousal maintenance (alimony) as a result of a paternity case or divorce from someone other than you. If NO, do not write anything for this question. If YES, fill in the amount paid or received each month, the date and county in which the Order was issued, and check off whether any arrearage exists (and if so, fill in the amount of the arrearage). Arrearage is any amount that is past due.
 - c. Check whether the judge has issued a temporary order in this case for child support or spousal maintenance (alimony). If NO, do not write anything for this question. If there is a temporary order for child support, check whether you (Respondent) or your spouse (Petitioner) pays child support, fill in the monthly child support amount, and check off whether there is or is not an arrearage. If there is an arrearage, fill in the amount past due. If there is a temporary order for maintenance, check whether you (Respondent) or your spouse (Petitioner) pays maintenance. Fill in the monthly amount of maintenance, and check off whether there is or is not an arrearage, and if so, fill in the amount of the arrearage.
- 4. List all of your necessary monthly expenses. List the expenses for your child(ren) if they are separate from yours and if you are responsible for paying those expenses.
 - 5. For any home owned by you and your spouse together, fill in the date the property was purchased, the purchase price, the estimated market value (this can be found on the most recent tax statement), the balance due on any mortgage(s) or loan(s), the net value of the property (market value minus the total due on mortgages or loans), the monthly mortgage payment, the name(s) on the title to the property, and the amount of any rental income (if any). Provide the same information for any other real property (such as a cabin) owned by you alone, your spouse alone, or both of you together. Attach another full sheet of paper if you need more room, and at the top of the paper, write "Exhibit A."
 - 6. If you alone (without your spouse) own any of the items listed, fill in the estimated market value. For stocks and bonds, include the stock name and number. For checking and savings accounts, include the bank name and account number. Do the same for any items owned by your spouse alone (without you). Do the same for any items owned by you and your spouse together.
 - 7. List all items you claim are your non-marital property and include the value of each item. **Non-marital property** means: (1) anything owned before the marriage; (2) anything received as a gift, bequest, devise or inheritance during the marriage; (3) anything received in a trade or exchange for non-marital property; (4) anything that is an increase in value of the non-marital property; (5) anything received after the valuation date set by the Court; (6) anything excluded by a valid ante nuptial contract.
 - 8. For each insurance policy owned by you or your spouse, list the name of the insurance company, the policy number, the type of insurance, the face amount, the cash value, the balance due on any loans, the name of the insured, the name(s) of the beneficiary(s) and the owner(s).
 - 9. Fill in the value and all other information regarding any pension, profit sharing, I.R.A., Keogh, deferred compensation, or other plan owned by you. Fill in the same information for any such plans owned by your spouse.
 - 10. List all secured and unsecured debts (**DO NOT** list any debts already included in Questions 4 or 5, such as for home or car loans).

- a. A secured debt is one for which you have pledged collateral. List all secured debts owed by you alone (without your spouse), including the name of the creditor, the balance due, monthly payment, the date the debt began, who owes the debt, and the reason for the debt. Do the same for any secured debts owed by your spouse alone (without you). Fill in the same information for any secured debts owed by you and your spouse together. Attach another sheet of paper if you need more room, and at the top of the paper, write “Exhibit 10A.”
- b. Examples of unsecured debts include utility bills (water, gas, electricity, etc.), credit card bills, school loans, and other bills and loans. On a separate sheet of paper, list all of the unsecured debts owed by you and/or your spouse, including the name of the creditor, the balance due, the monthly payment, and who owes the debt. At the top of the paper, write “Exhibit 10B.” Add up the total owed for you alone, for your spouse alone, and then the two of you together. Write those amounts on the lines for Question 10(b).

- **SIGN AND DATE THE FORM. IF YOU HAVE AN ATTORNEY, HAVE THE ATTORNEY SIGN IT AND FILL IN THE ADDRESS AND PHONE NUMBER.**
- **MAKE TWO COPIES OF THE PREHEARING STATEMENT. KEEP ONE COPY FOR YOUR RECORDS.**
- **MAKE SURE THAT YOU MAIL OR HAND-DELIVER THE SECOND COPY OF THE PREHEARING STATEMENT TO YOUR SPOUSE AND THE ORIGINAL PREHEARING STATEMENT TO THE COURT BY THE DEADLINE SET BY THE COURT.**
- **ATTEND THE PREHEARING CONFERENCE PREPARED TO SETTLE AS MANY ISSUES AS POSSIBLE.**
- **IF ALL ISSUES ARE NOT SETTLED AT THE PREHEARING CONFERENCE, THE COURT WILL SET THE MATTER FOR TRIAL.**

Step 9

Wait For Your Final Divorce Decree

1. If you and your spouse reached an agreement settling all of the issues in your marriage (such as signing a Marital Termination Agreement), your spouse will fill out the final divorce decree called the *Findings of Fact, Conclusions of Law, Order for Judgment and Judgment and Decree*, and will send it to you for your review. You must sign it on the last page on the line that says “Approved as to Form,” and then give the document back to your spouse. Your spouse will file the document with the Court. The Court Administrator will send you and your spouse a notice telling you when the Judge has signed the *Findings of Fact, Conclusions of Law, Order for Judgment and Judgment and Decree*.
2. If you and your spouse were unable to settle all of the issues and you had to go to trial, the court will issue the final divorce decree within 90 days after the trial. This will be called the *Findings of*

Fact, Conclusions of Law, Order for Judgment and Judgment and Decree. A copy will be sent to you.

WARNING: YOU ARE **NOT** DIVORCED UNTIL THE JUDGE and the Court Administrator/Deputy signs the *FINDINGS OF FACT, CONCLUSIONS OF LAW, ORDER FOR JUDGMENT AND JUDGMENT AND DECREE*. You will be notified by mail when this happens. You may obtain a plain copy or certified copy of your Divorce Decree from the Court Administrator. There is a cost for a certified copy and a cost for a plain copy. Make checks payable to “Court Administrator.” Include your name and the case number in your request. **NOTE:** You may make additional copies of your *Decree*. However, a copy is “certified” only if it has the original seal of the District Court. You cannot make a certified copy yourself.

OTHER STEPS AFTER ENTRY OF THE *DECREE*:

It is the responsibility of the parties to take all necessary steps to put into effect the others of the court. For example, if you changed your name as part of this proceeding, you will need to get your driver’s license and social security card changed to reflect your legal name. If you or Petitioner were awarded pension or medical benefits, the company or provider will need to see the *Decree* and may have other requirements before making the changes ordered by the court. If you and/or Petitioner own real estate, a certified copy of the *Decree* must be filed in the real estate records where the property is located. The actions you need to take depend on your *Decree* and your situation.